

REMARKS

Applicants respectfully request reexamination and reconsideration of the application in view of the following remarks.

Applicants have filed a Request for Continued Examination in order to establish on record the prior art references cited in Applicant's prior U.S. Patent 6,806,228 and related copending application S.N. 10,187,460 filed on July 1, 2002 which is a CIP of U.S. Patent 6,806,228 which issued from Application S.N. 09/896,834 filed on June 29, 2001.

Claim 8 has been amended to include gallium oxide and Applicant has also added new claims 19 and 41 - 69 which more concisely claim the instant invention. More particularly, Applicant noticed that claim 19 was inadvertently missing from the prior amendment. New independent claim 41 more concisely claims the invention including the step of forming monoatomic hydrogen and monoatomic oxygen from the oxygen and hydrogen gas phase. New independent claim 41 claims the introduction of monoatomic oxygen and monoatomic hydrogen in the gas phase. None of the claims claim new matter not disclosed in the original application.

Applicant is not aware of any new art which it considers to be more relevant than the references cited against its related patent; however, Applicant hereby encloses a new Information Disclosure Document with list and copies of foreign and non-patent references found in the search to the Examiner together with the requisite fee in order that the Examiner may review same and enter same into the record.

The Examiner has provisionally rejected claims 12 and 26 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent 6,806,228 or which Applicant is an inventor and which is assigned to the same Assignee as the instant application.

Applicant respectfully requests that the Examiner withdraw the rejection in view of Applicant and Assignee's terminal disclaimer. Applicant appreciates that claims 1-11 are allowed and believes that the disclaimer to U.S. Patent 6,806,228 should render claims 12 and 26 of the instant application allowable.

Applicant's statutory disclaimer states that the assignee, University of Louisville, disclaims the terminal part of any patent granted on the above-identified application, which would extend beyond the expiration date of U.S. Patent Application Serial No. 10/187,460 and U.S. Patent 6,806,228 and agreed that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Patent Application Serial No. 10/187,460 and U.S. Patent 6,806,228 this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successor or assigns.

For all of the foregoing reasons, Applicant submits that the claims are patentable over the cited references and that the application is in condition for allowance. Accordingly, Applicant respectfully requests prompt reconsideration and receipt of the formal Notice of Allowance. The fees for the extension of time, additional claims and terminal disclaimer are enclosed herewith. Please charge any underpayment or credit any overpayment to counsel's Deposit Account No. 50-0642. If the Examiner believes there are other unresolved issues in this case, Applicant's attorney would appreciate a telephone call at (502) 452-1233 to discuss any such remaining issues.

Respectfully submitted,



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